

Message Text

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FOR USOECD

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TAGS: EGEN, EINV, ECOSOC, OECD, AS

SUBJECT: OECD MINISTERIAL - ILLICIT PAYMENTS

REF: (A) STATE 143133, (B) STATE 136934, (C) STATE 124539,
(D) STATE 124538

1. ACCORDING TO C. SPENCER, ECONOMIC ORGANIZATIONS BRANCH,
DFA, CABLE WAS SENT AUSTRALIAN MISSION OECD ON JUNE 21
(AUSTRALIAN TIME) GIVING GOA SUPPORT TO WORDING ON ILLICIT
PAYMENTS IN DRAFT COMMUNIQUE FOR OECD MINISTERIAL CONTAINED
IN REFTTEL (A).

2. SPENCER SAID GOA SUPPORT GIVEN BECAUSE IN AUSTRALIAN
VIEW COMMUNIQUE LANGUAGE DOES NOT COMMIT AUSTRALIA TO
SUPPORT OF EVENTUAL BINDING MULTILATERAL AGREEMENT, ABOUT
THE MERITS OF WHICH GOA HAS CONSIDERABLE MISGIVINGS.

3. PRESENT THINKING OF GOA TOWARDS POSSIBILITY OF BINDING
MULTILATERAL AGREEMENT IS THAT IN ORDER GET WIDESPREAD
ACCEPTANCE IT WOULD HAVE TO BE SO WATERED DOWN AS TO
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BE VIRTUALLY MEANINGLESS AND UNENFORCEABLE. GOA RATHER
TENDING TO A SERIES OF BILATERAL AGREEMENTS WHICH COULD
BE CLOSELY NEGOTIATED BETWEEN TWO COUNTRIES CONCERNED
GIVING DUE CONSIDERATION OF DOMESTIC LAWS OF EACH. THEY
SAY THAT NEGOTIATION OF ILLICIT PAYMENTS CONVENTION WOULD
POSE SAME SORT OF PROBLEMS AS AN EXTRADITION TREATY AND
THAT IT HAD ALWAYS PROVED NECESSARY NEGOTIATE LATTER

TYPE OF TREATY ON BILATERAL BASIS. SPENCER (AS WELL AS J.H. GREENWELL, ASSIST. SEC., COMMERCIAL LAW ADVISING BR., ATTORNEY GENERAL'S DEPARTMENT, WITH WHOM WE SPOKE) SAID GOA REALIZED THAT PROSPECT OF NEGOTIATING HOST OF BILATERAL AGREEMENTS WOULD POSE SEVERE PROBLEMS FOR USG, WHILE AUSTRALIA COULD "GET BY" WITH ONLY A FEW SUCH AGREEMENTS WITH ITS MOST IMPORTANT TRADING PARTNERS.

4. SPENCER AND GREENWELL BOTH SAID THAT GOA NOT IN POSITION RESPOND AT THIS STAGE AS TO WHETHER IT WOULD SUPPORT US DESIRE FOR AN INTERNATIONAL AGREEMENT, AS THIS WOULD DEPEND ON THE EVENTUAL PROVISIONS OF THE AGREEMENT; ADMITTEDLY, THEY SAID, A "CHICKEN OR THE EGG" SITUATION.

5. SPENCER AND GREENWELL SAID THAT JUNE 27-JULY 1 ECOSOC WORKING GROUP MEETING WOULD PROBABLY BE COVERED BY C.L. HERMES, MINISTER (ATTORNEY-GENERAL'S DEPARTMENT), AUSTRALIAN HIGH COMMISSION, LONDON. ALTHOUGH IN THE PAST THIS WORK HAD BEEN HANDLED BY R.A. ST. JOHN OUT OF THE AUSTRALIAN EMBASSY IN WASHINGTON, HE HAS OTHER COMMITMENTS AT THIS TIME AND WILL BE UNABLE TO ATTEND.

6. J.H. GREENWELL TOLD US THAT ALMOST IMMEDIATELY FOLLOWING THE REVELATION OF THE LOCKHEED SCANDALS THE AG'S DEPARTMENT BEGAN A THOROUGH CANVASS OF THEIR OWN DOMESTIC STATUTES WITH A VIEW TOWARDS EVENTUALLY PASSING LIMITED OFFICIAL USE

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STRENGTHENING LEGISLATION WHERE NECESSARY. HE SAID THAT THE BASIC VOID IN CURRENT AUSTRALIAN STATUTES WAS THAT THEY DID NOT CURRENTLY EXTEND TO THE BRIBING OF A FOREIGN OFFICIAL BY AN AUSTRALIAN BUSINESSMAN. J. H. GREENWELL SAID THAT A DIGEST OF CURRENT AUSTRALIAN LAWS HAD BEEN GIVEN TO THE ECOSOC SECRETARIAT. J. H. GREENWELL WAS SOMEWHAT VAGUE AS TO WHEN THE PLANNED STRENGTHENING LEGISLATION MIGHT BE INTRODUCED. SOMEWHAT INCONSISTENTLY HE SAID THAT IT PROBABLY WOULD BE PREMATURE TO MAKE CHANGES PENDING THE OUTCOME OF INTERNATIONAL NEGOTIATIONS.

7. SPENCER TOLD EMBOFF THAT AS A LOGICAL SEQUEL TO ITS GENERAL POSITION, GOA NOT IN POSITION AT THIS TIME TO MAKE COMMITMENT TO A DIPLOMATIC CONFERENCE IN 1978, AS TO DO SO WOULD TEND TO PREJUDGE THE OUTCOME OF THE ECOSOC WORKING GROUP DISCUSSIONS AND THE FULL ECOSOC CONFERENCE. PERCIVAL

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